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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,582	04/09/2004	Gary Charles Berkowitz		1899

37243 7590 04/30/2008  
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EXAMINER

JONES, HUGH M

ART UNIT	PAPER NUMBER
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2128

MAIL DATE	DELIVERY MODE
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04/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **DETAILED ACTION**

1. The status of the claims is unknown.
2. The replies filed on 1/25/2008, 1/28/2008, 1/30/2008 are not fully responsive to the prior Office Action because of the following omission(s) or matter(s), as subsequently discussed.

### ***Response to Amendment***

3. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.
4. A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450
5. The replies are non-responsive for many reasons, including, at least:
  - Multiple amendments to the claims were made on the same day (1/24/2008; see header on some of the claim amendments) and on

different days (1/24/2008, 1/25/2008, 1/28/2008). This creates problems because:

- It is not clear which set of claims is current;
- Raises issues as to whether any amendments were filed after the time for reply had expired;
- Raises issues about whether the Examiner should prepare an action because of possible problems with more amendments crossing in the mail;
- The marked up copy of at least one of the claim sets does not comport with the claim set prior to any of the amendments;
- The later amendments appear to be amended (which does not comport with proper procedures for amendments) as reflected in the claims and various remarks.
- The specification appears to be completely rewritten. This raises the question of written description and new matter. Furthermore, no marked up copy has been provided.
- The claims as amended and the new claims appear to be directed at different inventions and therefore would be subject to restriction.
- Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining

how the claims avoid the references or distinguish from them. For example:

- The argument regarding "non-compliant incorporated material" is not understood. Furthermore, it is unclear how bodily incorporating the already incorporated material traverses the 112-1 rejection and Applicants have not explained their reasoning.
- The arguments regarding the art rejections do not refer to any specifics of the art or to specific claim limitations.
- The claim(s) are narrative in form and replete with indefinite and functional or operational language (see claim 3, for example);

6. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

#### ***Conclusion***

**7. Any inquiry concerning this communication or earlier communications from the examiner should be:**

directed to: Dr. Hugh Jones telephone number (571) 272-3781,  
Monday-Thursday 0830 to 0700 ET,

**or**

the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279.

Art Unit: 2128

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

**mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 308-9051 (for formal communications intended for entry)

**or** (703) 308-1396 (for informal or draft communications, please label *PROPOSED* or *DRAFT*).

/Hugh Jones/

Primary Patent Examiner

Art Unit 2128

April 26, 2008